

J. Y. Interpretation No.170 (September 25, 1981) *

ISSUE: Does the Administrative Proceedings Act constrain the people's right of instituting legal proceedings protected by the Constitution in providing that the administrative court shall dismiss a suit if it finds that an administrative litigation should not have been instituted or that the suit has been instituted against the legal procedure?

RELEVANT LAWS:

Article 16 of the Constitution (憲法第十六條) ; Article 14, Paragraph 1 of the Administrative Proceedings Act (行政訴訟法第十四條第一項) ; Article 47, Paragraph 2 of the Act Governing the Punishment of Police Offences (違警罰法第四十七條第二項) .

KEYWORDS:

administrative proceeding (行政訴訟) , administrative court (行政法院) , legal procedure (法定程序) , right of instituting legal proceedings (訴訟權) .**

HOLDING: The Administrative Proceedings Act provides in Article 14, Paragraph 1, that: "If the administrative should not have been initiated or that the

解釋文：行政訴訟法第十四條第一項：「行政法院審查訴狀，認為不應提起行政訴訟或違背法定程序者，應附理由以裁定駁回之」之規定，與憲法

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** Contents within frame, not part of the original text, are added for reference purpose only.

court, upon examining the complaint, finds that an administrative litigation suit has been initiated against the legal procedure, it shall dismiss the case by a ruling with statement of the grounds therefor.” This provision is not in conflict with Article 16 of the Constitution.

REASONING: While the people shall have the right of instituting legal proceedings under Article 16 of the Constitution, the procedure for conducting the action is subject to prescription of law. The Administrative Proceedings Act provides in Article 14, Paragraph 1, that: “If the Administrative Court, in examining the complaint, finds that an administrative litigation should not have been initiated or that the suit has been initiated against the legal procedure, it shall dismiss the case by a ruling with statement of the grounds therefor.” The provision is intended to instruct the administrative court on the manner of disposing the case if the court, upon examining the cause stated in the plaintiff’s complaint in the eyes of relevant laws (such as Article 1 of the Administrative Proceedings Act and Article

第十六條並無牴觸。

解釋理由書：人民有訴訟之權，憲法第十六條固定有明文，惟訴訟如何進行，應另由法律定之。查行政訴訟法第十四條第一項：「行政法院審查訴狀，認為不應提起行政訴訟或違背法定程序者，應附理由以裁定駁回之」之規定，係明示行政法院對於當事人提出之訴狀所載事項，依有關法律之規定，予以審查（如行政訴訟法第一條、違警罰法第四十七條第二項），認為不應提起行政訴訟或其提起違背法定程序者，所定之處理方式，並為使當事人明瞭緣由，應附述理由，故本條非屬限制訴訟權之規定，與憲法第十六條保障人民訴訟權之本旨，無牴觸之可言。

47, Paragraph 2, of the Act Governing the Punishment of Police Offences), finds that an administrative litigation should not have been instituted or it shall have been instituted in a manner non conformable with legal procedure, and to require further that the court give its reasons for its decision to help the party understand. Accordingly, the law is not meant to constrain the right of instituting legal proceedings, and is not in conflict with the purpose of Article 16 of the Constitution in protecting the people's right of instituting legal proceedings.

Justice Wei-Kuang Yiau filed dissenting opinion.

本號解釋姚大法官瑞光提出不同意見書。